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10/706,490	11/11/2003	Felton Thomas Colwell	9085.55USU1	7222

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EXAMINER	
NGUYEN, THUY-VI THI	
ART UNIT	PAPER NUMBER
3689	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/706,490	COLWELL, FELTON THOMAS	
	Examiner	Art Unit	
	THUY VI NGUYEN	3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's communication on November 11, 2003 wherein claims 1-24 are currently pending.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1- 23 drawn to method of fabricating window coverings, classified in class 705 subclass 01.

II. Claim 11, drawn to method of extending a product line, classified in class 705, subclass 01.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions in Groups I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the invention of group I is directed to method of fabricating window coverings, while invention of group II is directed to method of extending a product line.

Because these inventions are independent or distinct for the reasons given above, because the search required for Group I, is not necessarily required for Groups II due to their different scope and subject, and vice versa, restriction for examination purposes as indicated is proper since it's a serious burden for the examiner to examine all of these amended claims.

5. During a telephone conversation with Brian Batzli on July 29, 2008 a provisional election was made without traverse to prosecute the invention of group 1, claims 1-23. Affirmation of this election must be made by applicant in replying to this Office action. Claim 24 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 21 step b and c are vague and indefinite because it is not clear why a mathematical address is needed for mixing color information. It appears this is related to the use of electronic database. So the combination of dependent claim 23 into 21 is recommended to over the rejection.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Palmer et al (US 2002/0024479).

As for claim 20, Palmer discloses a method of providing custom-colored window comprising:

a) receiving an order for a window covering [see par. 0055 wherein.... *receiving customized inputs/information for window covering, color, texture from the customer....*]; wherein the order includes a physical sample for color-matching [see figure 2 and pars. 0025-0026; *...a color match of fabric swatch or wallpapers sample; colors in physical form such as preference card...*].

b) mixing different colored inks to provide ink to match the physical sample provided in the order [figure 2, pars. 0025 and 0026; *color matching and mixing; i.e. scanning the sample with a scanner configured to identify a corresponding color (similar to custom mixing of paints...*];

c) applying the ink to a window covering to provide a custom-colored window covering [par. 0002, par. par. 0020; par. 0024 and figure 5 wherein *applying a desired decorative element (14) such as colors to window covering (12)*].

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 1-19, 21-23 are rejected under 35 U.S.C. 103(a) as obvious over Applicant Admitted Prior Art **(AAPP)**(Figures 3a and 3b labeled prior art and [0034] which states that Figures 3a and 3B – depict the prior art fabrication method) in view of Palmer et al (US 2002/0024479).

As for claim 1, the Description of Related Art" on par. 0006 of the specification, **AAPA** discloses a method of fabricating window coverings comprising:

a) receiving orders for custom-colored window covering [par. 0006 wherein: *customer desiring a custom-made window covering place an order; the retail source is receiving the order* "];

b) formulating a layout for cutting the bulk window covering material [par. 0034; figure 3a and 3b wherein *the bulk window covering material is sized and cut*] and

c) cutting the bulk window covering material according to the layout [par. 0006 and par. 0034 wherein: *fabricator cuts the bulk material into size.* **Note**: Applicant has indicated that figures 3a-b are prior art and pars. 0034 discussed the prior art figures. Furthermore, the method of formulating a layout and cutting the blank bulk window covering material of the instant application and the pre-colored bulk window covering material disclosed in AAPA would be performed the same regardless the color of the material.

d) applying color to the cut material [...par. 0006 wherein AAPA discloses *adding/applying the desired item to the custom window covering, wherein the desired*

item is a hardware. **Note**: The selection of any other window feature such as desire color or other would have been obvious as mere selection other limited window covering features.

Alternatively, Palmer et al teach applying color to the material [par. 0002, par. par. 0020; par. 0024 and figure 5 wherein *applying a desired decorative element (14) such as colors to window covering (12)*]. It would have been obvious to modify the teaching of AAPA by carry out the method of customize the window covering to include the process of applying the color to the material as taught by Palmer for the customers' desired color choice. Since doing so color is performed readily and easily by any person of ordinary skill in the art with neither undue experimentation, nor risk of one expected results.

As for claim 2, Palmer discloses applying two colors or varieties of color on the material [par. 0024]. Note: the teaching of duplicate parts/items/features for multiple effects is well known and would have been obvious. See *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960).

As for claim 3, AAPA discloses the window coverings are cellular fabric, a woven fabric or a non-woven fabric [par. 0005]. Alternatively, Palmer also discloses the window coverings are non-woven fabric [par. 0021].

As for claim 4, Palmer discloses wherein the orders include size, style and color information [par. 0021 and figure 6].

As for claim 5, AAPA discloses the installing hard ware [par. 0006].

As for claim 6, Palmer discloses receiving orders over an internet connection

[par. 0029 and figure 1]. Note: the method of ordering using the internet, phone, mail or facsimile is common, old and well known in the art.

As for claim 7, Palmer discloses the bulk window covering material comprises a neutral-colored material [par.0021 *wherein window covering has a variety of base colors*].

As for claim 8, Palmer discloses the formulating the material window covering. [par. 0034 wherein *constructing a "wire frame" model*]. Note: the formulating the layout parameters, i.e. optimizing the layout is well known.

As for claim 9, Palmer discloses wherein optimizing the layout comprises using software constructed to create an optimum layout [par. 0034].

As for claim 10, Palmer discloses wherein optimizing the layout comprises making a visual determination to create an optimum layout [par. 0032, 0034 and figure 7 (visual interface program 76)].

As for claim 11, Palmer discloses wherein applying color to the cut material comprises an application method selected from the group consisting of spraying, brushing, rolling, pad coating, curtain coating, inkjet printing, silkscreen printing and dying [...Par. 0023; par. 0035 wherein Palmer discloses the well known applying color from inkjet printing; par. 0023].

As for claim 12, Palmer discloses wherein applying color to the cut material is accomplished manually [par. 0023, lines 16-18].

As for claim 13, Palmer inherently discloses the applying color to the cut material is accomplished by an automated well known X-Y table [par. 0030, 0034, lines 9-18, wherein *window covering can be rotated, adjusted, and view in variety of angels*].

As for claims 14-17, Palmer discloses the applying color to the window covering material including the variety of colors [pars 0024, 0025; 0035 and figure 5]. It would have been obvious to applying either one color or different colors to different surfaces of the material as a desire choice of the customer.

As for claim 18, Palmer discloses wherein the window covering material comprises a woven, knit or non-woven material [par. 0021, par. 0025].

As for claim 19, Palmer discloses wherein the non-woven materials include a nonwoven polyester materials or a synthetic material [par. 0021, par. 0025].

As for claim 21, Palmer discloses a method of providing custom-colored window coverings, comprising the steps of:

a) receiving an order for a window covering [see par. 0055 wherein *receiving customized inputs (color, textures, image of window covering) from the customer*]; wherein the order includes color information [see figure 2 and par. 0025-0026; *a color match of fabric swatch or wallpapers sample; colors in physical form such as preference card*];

b) converting the color information in a mathematical address [...This is interpreted as converting the color information in a digital format for use in the database; par. 0032, 0033, figures 1 and 2; ....*color match program 82 searches the database for "corresponding" colors* ....]

c) mixing different colored inks to provide ink comprising a custom color according to a color selection program parameters in the database;

{see Figs. 2, 7, pars. 0025 and 0026; "*...color matching and mixing...*" };

d) applying the ink to a neutral-colored, window covering to provide a custom-colored window covering [par. 0002, par. par. 0020; par. 0024 and figure 5 wherein *.....applying a desired decorative element (14) such as colors to window covering (12); window covering to be customized bay be base colors i.e. white or off white....*].

Note: as for the language of "a mathematical address" in the converting the color information step of step (b), this appears to be dealt with a step for converting the data information into digital format for use in a database which normally use a mathematical address to identify/locate the data, this is inherently included in the teachings of Palmer et al as shown on Figs. 1 and 2 and 7].

Note: On paragraph [0038] in the current specification, applicant admitted that the process of automatically color matching using a mathematical address for color characteristics is well known in the art, as cited by US Patent 5,012,431, therefore, it would have been obvious to use the a mathematical address for color characteristics for matching color on an automatic device/computer.

As for claim 22, on paragraph [0038] in the current specification, AAPA discloses that the process converting the color information using an L*A*B color match system to convert a color to a mathematical address is well known in the art, as cited by US Patent 5,012,431, therefore, it would have been obvious to use the L*A*B color match system to applying on the custom window covering material.

As for claim 23, Palmer discloses wherein converting the color information comprises retrieving a mathematical address for the color from an electronic database [par. 0032-0033 and figure 7.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. The US Patent to Benoit discloses method and apparatus for tinting the vehicle window; and to Rice et al discloses paint color matching and coordinating system. The US Patent Application Publication to Rupel et al disclose a method for producing an expandable and collapsible product for use in window covering;

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689